

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
FOR THE TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

FILED  
2008 OCT -8 AM 10:01

STATE OF TENNESSEE, *ex rel.*, ROBERT  
E. COOPER, JR., Attorney General and  
Reporter,

Plaintiff,

v.

MOTIVA ENTERPRISES LLC, a Delaware  
limited liability company, and  
SHELL OIL PRODUCTS US, a Delaware  
limited liability company,

Respondent.

RICHARD A. RUCKELB. CLERK

*C. H. Ruckelshaus* D.C.

No. 08C-3308

## AGREED FINAL ORDER

This cause came to be heard on the State of Tennessee's Petition and the parties' Assurance of Voluntary Compliance, and the Court is of the opinion that the Assurance of Voluntary Compliance attached hereto as Exhibit A should be approved. It is therefore

ORDERED, ADJUDGED, and DECREED that the Assurance of Voluntary Compliance annexed hereto and incorporated herein by reference, and hereby made a part of this Agreed Final Order ("Order") be, and the same hereby is, approved, and it is further

ORDERED, ADJUDGED, and DECREED that Respondent shall comply with the terms thereof unless rescinded in writing by the parties or modified as provided therein and approved by this Court for good cause shown.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that

(A) Jurisdiction of this Court over the subject matter herein and over the person of the Respondent for the purposes of entering into and enforcing this Order and the Assurance is admitted. Jurisdiction is retained by this Court for the purpose of enabling the State to apply such further orders and directions as may be necessary or appropriate for the construction, modification or execution of this Order and Assurance, including enforcement of compliance therewith and assessment of penalties for violation(s) thereof. Pursuant to Tenn. Code Ann. § 47-18-107, venue as to all matters between the parties relating hereto or arising out of this Order and Assurance is solely in Davidson County, Tennessee.

(B) As required by the Assurance and this Order, Respondent shall pay the total sum of One Hundred Thousand Dollars and 00/100 cents (\$100,000.00), of which at least One Thousand Five Hundred Dollars (\$1,500.00), is expected to be distributed to the State of Tennessee. The payment to the Attorney General of the State of Tennessee shall be used for attorneys' fees and costs of investigation, prosecution and monitoring for compliance of this matter, which may be used for consumer protection purposes or other lawful purpose at the sole discretion of the Attorney General. In the event, the State of Tennessee receives additional monies, those funds shall be attorneys' fees pursuant to this paragraph.

(C) Respondent hereby waives any and all rights which it may have to be heard in connection with judicial proceedings upon the Petition, Assurance and Order.

(D) This Order and the Assurance shall only be enforceable by the parties to this action.

(E) Pursuant to Tenn. Code Ann. § 47-18-107, nothing in this Assurance or Order shall be construed to affect any private right of action that a consumer may hold against the Respondent.

(F) Any subsequent failure to comply with the terms hereof is *prima facie* evidence of a violation of the Tennessee Consumer Protection Act. Further, any knowing violation of the terms of this Assurance shall be punishable by civil penalties of not more than One Thousand Dollars (\$1,000.00) for each violation, in addition to any other appropriate penalties and sanctions.

(G) Pursuant to Tenn. Code Ann. § 47-18-107(c), an Assurance of Voluntary Compliance shall not be considered an admission of prior violation of the Tennessee Consumer Protection Act.

(H) Nothing in this Assurance or Order shall be construed to waive any claims of Sovereign Immunity the State may have in any action or proceeding.

Immunity the State may have in any action or proceeding.

(I) The Tennessee Attorney General and Reporter serves only as the civil law enforcement authority under the Tennessee Consumer Protection Act of 1977. He possesses no criminal authority. Therefore, nothing in this Assurance or Order shall be construed to waive any criminal claims that may exist.

(J) All costs associated with the filing and distribution of this Order, Assurance and Petition and any other incidental costs or expenses incurred thereby shall be borne by Respondent. No costs shall be taxed against the State of Tennessee as provided by Tenn. Code Ann. § 47-18-116. Costs shall be taxed to Respondent.

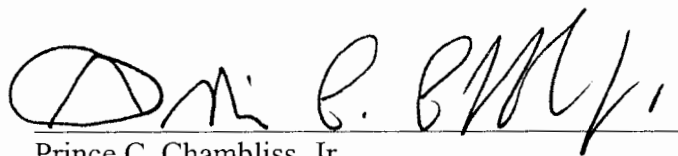
IT IS SO ORDERED this 8<sup>th</sup> day of October, 2008..

  
JUDGE HAMILTON GAYDEN, JR.  
1ST CIRCUIT COURT

I hereby certify that this is a true copy  
of original instrument filed in my office  
this 8 day of OCT 2008  
RICHARD R. ROOKER Clerk  
By CH  
Deputy Clerk

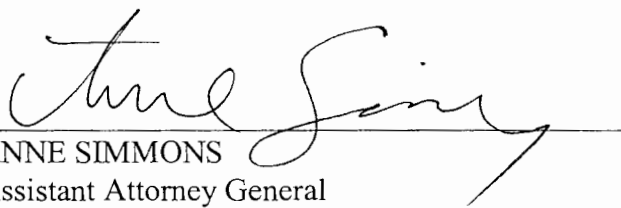
JOINTLY APPROVED AND  
SUBMITTED FOR ENTRY:

FOR RESPONDENT:

A handwritten signature in black ink, appearing to read "Prince C. Chambliss, Jr.", written over a horizontal line.

Prince C. Chambliss, Jr.  
B.P.R. No. 5071  
Evans & Petree PC  
1000 Ridgeway Loop Road  
Suite 200  
Memphis, Tennessee 38120  
Tel: 901.521.4590  
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FOR THE TENNESSEE ATTORNEY GENERAL:

A handwritten signature in black ink, appearing to read "Anne Simmons", written over a horizontal line.

ANNE SIMMONS  
Assistant Attorney General  
B.P.R. No. 26272  
Division of Consumer Advocate & Protection  
Office of the Tennessee Attorney General  
Post Office Box 20207  
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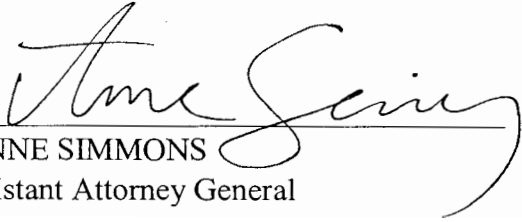
## CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document filing has been forwarded via facsimile to the following:

Prince C. Chambliss, Jr.  
Evans & Petree PC  
1000 Ridgeway Loop Road  
Suite 200  
Memphis, Tennessee 38120  
Fax: 901.374.7486

Michael A. Fitzhugh  
Fitzhugh & Mariani LLP  
Suite 1700  
155 Federal Street  
Boston, MA 02110-1727  
Facsimile: (617) 695-2335

on this the 8 day of October, 2008.

  
ANNE SIMMONS  
Assistant Attorney General